

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARSHALL RICHMOND,
Petitioner,

No. 3:11-cv-1355-CL

v.

JEFFERY THOMAS,
Respondent.

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a Magistrate Judge's Report and Recommendation, the district court makes a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Here, petitioner objects to the Report and Recommendation, so

I have reviewed this matter de novo. I agree with Magistrate Judge Clarke that the amended petition fails on its merits because the Fair Sentencing Act does not apply retroactively. See United States v. Baptist, 646 F.3d 1225, 1229 (9th Cir. 2011) (per curiam), cert. denied, 132 S. Ct. 1053 (2012). Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#16) is adopted. Respondent's motion to dismiss (#13) is granted. The amended petition (#8) is denied.

IT IS SO ORDERED.

DATED this 21 day of June, 2012.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE